

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1864 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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ODHAVJI MAGAN MALI

Versus

THE STATE OF GUJARAT AND ORS

Appearance:

MR SB VAKIL for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/08/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner filed this petition challenging thereunder the order No.LSU-L-Bhavnagar-8-81 dated 3.2.1982 passed by the Additional Special Secretary (Appeals), Revenue Department, Government of Gujarat and the order No.ULC-21-4-79 dated 7.7.1980 passed by the Competent Authority and Deputy Collector, Urban Land Ceiling, Bhavnagar. Under the impugned order, the Competent Authority, respondent No.3, u/s.21(1) of the Urban Land (Ceiling & Regulation) Act, 1976, (hereinafter referred to as the Act 1976), made ad declaration that only 7609.90 sq.mts. out of 40,671.35 sq.mts. of vacant land bearing Survey No.198/2 of village Vartej of the petitioner shall not be excess land.

2. The detailed facts and the grounds raised in this Special Civil Application need not be mentioned in view of the affidavit filed by the respondent No.3 dated 6th August 1996, and the letter of the Commissioner of Land Reforms and secretary, Govt. of Gujarat, dated 14.8.96, this matter has to be remanded back to the Competent Authority. In the affidavit, the respondent No.3 stated

that on physical verification of the land in dispute, which he got done by the authorized Government officer (District Inspector of Land Records, Bhavnagar), it comes out that out of the holdings of the petitioner, 2017sq.mts. land of Survey No.198/2 is falling within purview of the Act 1976 and the rest of the land is situated outside the urban area. The Competent Authority proceeded in the matter while dealing with the application of the petitioner u/s.21(1) of the Act 1976, as if the whole land of Survey No.198/2 falls within the purview of the Act 1976. On this affidavit, this Court has considered it necessary to get verification of the same from the Secretary of the Department. The learned counsel for the respondent filed a letter of the Commissioner of Land Reforms and Secretary, Government of Gujarat dated 14th August 1996, wherein it has been stated that the major part of the disputed land of Survey No.198/2 of Bhavnagar is outside the limits of urban land ceiling as per ULC plan except an area admeasuring 2017 sq.mts. of the said survey number which falls within ULC limit of Bhavnagar Urban Agglomeration.

3. In view of the affidavit of respondent No.2 and the letter of the Commissioner of Land Reforms and Secretary, Government of Gujarat, the orders passed by the appellate and competent authorities cannot be allowed to stand. The matter has to be reconsidered afresh with reference to these two documents.

4. In the result, this writ petition succeeds and the impugned orders are quashed and set aside. The matter is sent back to the Competent Authority and Deputy Collector, Urban Land Ceiling, Bhavnagar, with direction to decide the application of the petitioner filed u/s.21(1) of the Act 1976 afresh after taking into consideration the letter No. S.30/SCA/1864/82 V4, from the Commissioner of Land Reforms and Secretary, Government of Gujarat, dated 14.8.1996, and its own affidavit dated 6th August 1996. The office is directed to send zerox copies of the letter of Commissioner of Land Reforms and Secretary, Government of Gujarat, dated 14.8.96 and the affidavit of respondent No.3 dated 6th August 1996, alongwith writ of the Court. Rule is made absolute in aforesaid terms with no order as to costs.

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(sunil)